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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/624,528	07/23/2003	Dirk Heinrich	233810US0	6667
22850	7590	11/14/2006	EXAMINER LE, HOA T	
C. IRVIN MCCLELLAND OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			ART UNIT 1773	

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/624,528

Applicant(s)

HEINRICH ET AL.

Examiner

H. T. Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.  
4a) Of the above claim(s) 10-17 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-9 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 8/31/06.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### *Election/Restrictions*

2. This application contains claims 10-17 drawn to a non-elected invention. The election has been treated as without traverse for lack of affirmative response to the restriction requirement as set forth in the last office action.

#### *Response to Arguments*

3. Claims 1-5, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Mumcu (US 4,687,837) as set forth in the last office action and further discussed below.

- 3.1. Applicant argued that:

Mumcu (U.S. 4,687,837) does not disclose or suggest that at least 75% by weight of spherical particles in which all three spatial axes x, y and z of the individual particles have the same dimension to within  $\pm 10\%$ . All that Mumcu discloses at col. 3, first line is that there are particles that assume spherical shapes. However, just because there is a spherical shape, the Mumcu patent does not mean that the particles have a dimension within a narrow range of distribution as claimed ( $\pm 10\%$ ). Thus, Mumcu does not anticipate the present invention.

The examiner disagrees with Applicant's argument for several reasons. First, Mumcu reports that the polyamide powder comprises particles of "narrow spectrum of grain size" (col. 2, lines 66-68) indicating that the particle size is uniform. Secondly, the particles are reported to assume "spherical shapes" (col. 3, line 1) indicating that almost 100% of the particles are spherical, and spherical shape requires that all three axes of the particle have the same dimension. Thirdly, Applicant argued that "the polyamide powder of the invention gave a

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very homogeneous coating on the metal pipe, the quality of the coating reaching that of a traditional fluidized-bed-coating powder. In terms of dusting and fluidization, the powder exhibits comparably good processing properties. The polyamide powder of the invention can achieve desired layer thicknesses below 200  $\mu\text{m}$ . Satisfactory layer thicknesses of 120  $\mu\text{m}$  could be achieved in the trial reproducibly, without defects.” (emphases added). The “good processing properties” in terms of “dusting and fluidization”, as elaborated in Applicant’s arguments, are interestingly enough exactly what Mumcu emphasizes in his disclosure at col. 5, lines 9-18: “No dusting takes place with the fluidized bed powders of the invention in the fluidized bed. They run well as metal coatings even for thickness of 120 to 200  $\mu\text{m}$ , which are impossible with fluidized bed powders of the state of the art”. The polyamide powder of Mumcu exhibits a “non-dust”, “pore-free” (i.e. homogeneous) coating from thickness as low as 110 and 120  $\mu\text{m}$  (see col. 6, lines 35-37 and 45-48). The similarity between the Mumcu polyamide powder and the claimed powder in terms of superior coating properties unambiguously signifies that the particles of polyamide powder taught by Mumcu possess the specific spherical shape and distribution as characterized in the instant claims.

4. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mumcu (US 4,687,837) in combination with either Suzuki (US 5,139,821) or Araki et al (US 6,777,488) as set forth in the last office action and further discussed below.

4.1 Applicant argued that the “superior properties” (namely dustfree and homogeneous coating for thickness under 200  $\mu\text{m}$ ) are not disclosed or suggested by Mumcu, Suzuki or Araki et al, and that “[e]ach of Suzuki or Araki et al do not cure the defects of Mumcu”. This

is not true as discussed in paragraph 3.1 above showing that the polyamide powder taught by Mumcu possesses every "superior property" declared in Applicant's arguments.

5. Applicant's arguments filed August 31, 2006 have been fully considered but they are not persuasive for the reasons set forth above.

### ***Conclusion***

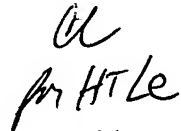
6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511. The examiner can normally be reached on 10:00 a.m. to 6:30 p.m., Mondays to Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on 571-272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



H. T. Le  
Primary Examiner  
Art Unit 1773

November 8, 2006